

असाधारण

EXTRAORDINARY

भाग II-- वण्ड 2

PART II-Section 2 प्राधिकार से प्रकाशित



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इस भाग में भिन्न पष्ठ संख्या थी जाती हैं जिससे कि यह अलग संकलन के रूप में रखा जा सकी। Separate paging is given to this Part in order that it may be filed as a separate compilation

LOK SABHA

The following Bill was introduced in Lok Sabha on 9th May, 1972:-

BILL No. 40 of 1972

A Bill to amend the General Insurance (Emergency Provisions) Act. 1971.

BE it enacted by Parliament in the Twenty-third Year of the Republic of India as follows:—

- 1. (1) This Act may be called the General Insurance (Emergency Short Provisions) Amendment Act, 1972.
- (2) It shall be deemed to have come into force on the 13th day of May, 1971.
- 2. In the General Insurance (Emergency Provisions) Act, 1971 (here- Insertion inafter referred to as the principal Act), after section 4, the following sec- of new tions shall be inserted, namely:-

title and commencement.

sections 4A and 4B in Act 17 of 1971.

"4A. (1) Notwithstanding anything contained in the Companies Applica-Act, 1956, or in the memorandum or articles of association of any tion of insurer or in any other instrument, no resolution passed at any meet- Act ing of the Board of directors or of the members of an insurer shall 1 of 1956. be given effect to unless approved by the Central Government.

- (2) Subject to the other provisions contained in this Act and subject to such exceptions, restrictions and limitations, if any, as the Central Government may, by notification in the Official Gazette, specify in this behalf, the Companies Act, 1956 and the Insurance 1 of 1958. Act shall continue to apply to every insurer in the same manner as they applied to him before the appointed day.
- (3) Every notification made by the Central Government under sub-section (2) shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforsaid, both Houses agree in making any modification in the notification, or both Houses agree that the notification should not have been made, the notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification.

Custodian or other person to be in charge of the management of the undertaking of the insurer. 4B. Subject to such directions and instructions as the Central Government may give under this Act, the Custodian, or, where no Custodian has been appointed in relation to the undertaking of any insurer, the person in charge, under section 3, of the management of the undertaking of the insurer, shall alone be entitled to exercise all the powers of management in connection with, or incidental to, the carrying on or otherwise of the general insurance business of the insurer, whether such powers are derived from the Companies Act, 1956, or from the memorandum or articles of association of the in- 1 of 1956, surer or from any other source."

Amendment of section 6.

- 3. In sub-section (2) of section 6 of the principal Act,—
- (a) in sub-clause (i) of clause (A), for the words "dividend during at least one", the words "dividend for at least one" shall be substituted;
- (b) in clause (B), for the words "net premium income of the undertaking of the insurer in India", the words "net premium income of the undertaking of the insurer in so far as it relates to business effected in India" shall be substituted.

Saving.

4. The provisions of the General Insurance (Emergency Provisions)
Act, 1971, as amended by this Act, shall have effect notwithstanding any ¹⁷ of ¹⁹⁷¹.
judgment, decree or order of any Court or Tribunal.

STATEMENT OF OBJECTS AND REASONS

Pending nationalisation of general insurance business, the General Insurance (Emergency Provisions) Act, 1971 provided for the taking over of the management of the undertakings of all general insurers and for the carrying on of general insurance business on behalf and subject to the directions of the Central Government through Custodians appointed in that behalf. While the intention of the Act is that Custodians appointed thereunder should alone have all the powers of management in respect of the general insurance business of the insurers to the exclusion of all other persons who may have exercised such powers before the take over, it is sought to be asserted in certain quarters that it is still open to the erstwhile Board of directors (by whatever name called) or the general body of shareholders to exercise powers of control having a bearing on the general insurance business of the insurers.

This Bill is intended to remove all ambiguities on the subject by making it clear that the Custodians alone have all the powers of management and that any resolution in relation to general insurance business passed after the take over by any person who might have had authority in that behalf before the take over shall have no effect unless approved by the Central Government. Power is also taken to make suitable modifications in the Companies Act and the Insurance Act in their application to insurers, if it becomes necessary to do so.

Advantage is also taken of this opportunity to make two further clarificatory amendments in section 6. While the amendment to section 6(2) (A) (i) is intended to make it clear that the dividend declared should be in respect of one of the three years mentioned therein which alone is relevant and not a dividend declared during one of those three years which has reference to an earlier year, the amendment to section 6(2) (B) seeks to provide that the net premium income referred to therein is with respect to business effected in India, so that foreign insurers carrying on business outside India through their Indian branches do not get an unintended benefit in respect of premiums written outside India.

New Delhi; The 18th April, 1972. Y. B. CHAVAN.

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF THE CONSTITUTION OF INDIA

[Copy of letter No. 64(1) INS. I/72, dated the 27th April, 1972 from Shrimati Sushila Rohatgi, Deputy Minister in the Ministry of Finance to the Secretary, Lok Sabha.]

The President having been informed of the subject matter of the proposed General Insurance (Emergency Provisions) Amendment Bill, 1972, recommends the introduction of the Bill in the Lok Sabha under clause (1) of article 117 and its consideration under clause (3) of article 117 of the Constitution.

FINANCIAL MEMORANDUM

Section 6 of the General Insurance (Emergency Provisions) Act, 1971 lays down the rates at which compensation is payable to the insurers whose management has been taken over by Government with effect from 13th May, 1971. The Bill seeks to amend sub-clause (i) of clause (A) of sub-section (2) and clause (B) of sub-section (2) of section 6 of the Act to remove two ambiguities in the wording and to make the intention clear beyond all doubts. The amendments are not likely to make any perceptible difference in the quantum of compensation payable under section 6 of the above mentioned Act, and the recurring financial liability on account of the payment of the compensation, would continue to be Rs. 33 lakhs, per month.

2. There will be no expenditure of a non-recurring nature in case this Bill is passed into law.

MEMORANDUM REGARDING DELEGATED LEGISLATION

In clause 2 of the Bill, sub-section (2) of the proposed new section 4A provides as under:—

"Subject to the other provisions contained in this Act and subject to such exceptions, restrictions and limitations, if any, as the Central Government may, by notification in the Official Gazette, specify in this behalf, the Companies Act, 1956 and the Insurance Act shall continue to apply to every insurer in the same manner as they applied to him before the appointed day.".

2. These are matters of procedure and administrative detail and it is not practicable to provide for them in the Bill itself. The delegation of the legislative power is, therefore, of a normal character.

S. L. SHAKDHER, Secretary.